

REMARKS/ARGUMENTS

I. General Remarks

Applicants hereby request continued examination of this application, in accordance with 37 C.F.R. § 1.114. Applicants respectfully request consideration of the claims in light of the amendments and remarks contained herein.

I. Disposition of the Claims

At the time of the Final Office Action, claims 1-41 and 63-66 were pending in this application. Claims 42-62 and 67-88 were canceled in response to restriction requirement. Claims 1-41 and 63-66 are rejected. Claims 1, 29, 63, and 66 have been amended herein. Claim 14 has been canceled. Applicants respectfully submit that these amendments add no new matter to the application and are supported by the specification as originally filed. All the above amendments are made in a good faith effort to advance the prosecution on the merits of this case.

II. Remarks Regarding Objections to the Specification

The Examiner has noted Applicants' use of the trademarks ACCOLADE™, PETROFREE®, ALCOSPERSE® 747 and ALCOQUEST® 747 in the specification and has stated that "because the physical/chemical properties of the instant trademarks disclosed in the specification have no fixed or definite meaning, a scientific explanation is necessary that provides sufficient certainty of the chemical characteristics of the fluids and polymers encompassed by said trademarks so that a person skilled in the art can ascertain the claimed invention." (Final Office Action at 5.) Applicants have amended the specification to include chemical characteristics of the chemical characteristics of the fluids and polymers encompassed by the aforementioned trademarks. Therefore, Applicants respectfully request the withdrawal of this objection.

III. Remarks Regarding Rejections under 35 U.S.C. §102

Claims 1-9, 11-17, 19-21, 23-34, 36-41, 63 and 65-66 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,990,050 to Patel (hereinafter "*Patel*"). With respect to this rejection, the Office Action states that:

Patel discloses the drilling fluid to further contain wetting agents or emulsifiers, such as crude tall oil, oxidized crude tall oil, alkyl aromatic sulfates, and sulfonates; organophilic clay, an oil-soluble polymer or a polyamide resin as a viscosifier; weighting agents; fluid loss control agents; and corrosion inhibitors, such as silicates

(Col. 5, lines 1-15 and 22-63) Patel lists a series of emulsifiers . . . followed by an alternate, separate list of surfactants, which can be instead used to produce or stabilize the invert-emulsion. Thus, Patel does not require that the invert-emulsion contain a surfactant.

(Final Office Action at 6.) Applicants respectfully disagree because *Patel* does not disclose every element of claims 1-9, 11-13, 15-17, 19-21, 23-34, 36-41, 63 and 65-66 as required to anticipate these claims under 35 U.S.C. § 102(b). See MPEP § 2131.

In particular, *Patel* does not disclose “solid emulsion facilitating particles,” as recited in independent claims 1, 29, 63, and 66, as amended. Nowhere does *Patel* disclose this recitation. Rather than disclosing solid emulsion facilitating particles, *Patel* discloses that “wetting agents and emulsifiers that may be suitable for use in the invention include, crude tall oil, oxidized crude tall oil, surfactants, organic phosphate esters, modified imidazolines and amidoamines, alkyl aromatic sulfates, sulfonates, and the like, and combinations or derivatives of these.” *Patel*, col. 5, ll. 11-16. Thus, the wetting agents and emulsifiers disclosed by *Patel* are not solid emulsion facilitating particles.

Moreover, *Patel* fails to disclose that the emulsion facilitating particles have a fluid contact angle in the range from about 70° to about 140°. In the previous non-final office action, the Examiner stated that:

Although Patel does not specifically disclose contact angles for the various emulsion phases (claims 14-17), because the emulsion disclosed by Patel and that encompassed by the instant claims are the same, then both emulsions must inherently possess the same physical properties, such as contact angle.

(Non-Final Office Action at 7.) However, *Patel* does not disclose solid emulsion facilitating particles, and as such, does not disclose the surfactant free-emulsion encompassed by Applicants’ claims. Furthermore, *inter alia*, the contact angles of the emulsion facilitating particles are important to the ability of the solid emulsion facilitating particles to serve as effective stabilizers of an emulsion. By utilizing emulsion facilitating particles, wherein the emulsion facilitating particles have a fluid contact angle in the range from about 70° to about 140°, the proper wettability and particle interactions of the solid emulsion facilitating particles may be obtained, and these particles can be used to effectively stabilize an emulsion.

Patel does not disclose every limitation of Applicants’ claims 1, 29, 63, and 66. Therefore, Applicants respectfully assert that independent claims 1, 29, 63, and 66 are not

anticipated by *Patel*. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 102(b) rejections as to independent claim 1, 29, 63, and 66 and its dependents, claims 2-9, 11-13, 15-17, 19-21, 23-28, 30-34, 36-41, and 65.

IV. Remarks Regarding Rejections under 35 U.S.C. §103

A. Claims 18, 22, and 35 Are Not Obviated by *Patel* in view of *Perrin*.

Claims 18, 22 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Patel* in view of “Amphiphilic Copolymers”, Langmuir 1998, 14, 5977-79 (hereinafter “*Perrin*”). Applicants respectfully disagree. As discussed above in Section III, *Patel* does not teach each and every limitation of independent claims 1 and 29, from which claims 18, 22, and 35 depend. Nor can *Perrin* be used to provide the missing limitations. Accordingly, Applicants respectfully request withdrawal of this rejection with respect to claims 18, 22 and 35.

B. Claims 10 and 64 Are Not Obviated by *Patel* in view of *Kokal*.

Claims 10 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Patel* in view of “Crude Oil Emulsions: A State of the Art Review”, SPE 77497 (hereinafter “*Kokal*”). Applicants respectfully disagree. As discussed above in Section III, *Patel* does not teach each and every limitation of independent claims 1 and 63, from which claims 10 and 64 depend. Nor can *Kokal* be used to provide the missing limitations. Moreover, *Kokal* states that: “the effectiveness of these solids in stabilizing emulsions depends on a number of factors, such as particle size, particle interactions, and the wettability of the particles.” *Kokal* at 5. Although *Kokal* refers to the factors affecting the ability of fine solids to act as mechanical stabilizers of an emulsion, nowhere does *Kokal* teach how such stability can be achieved despite such factors. Thus, *Patel* in view of *Kokal* cannot obviate Applicants’ claims. Accordingly, Applicants respectfully request the withdrawal of this rejection with respect to claims 10 and 64.

V. No Waiver

All of Applicants’ arguments are without prejudice or disclaimer. Additionally, Applicants have merely discussed example distinctions from the cited references. Other distinctions may exist, and Applicants reserve the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner’s additional statements, such as, for example, any statements relating to what would be obvious to a person of ordinary skill in the

art. The example distinctions discussed by Applicants is sufficient to overcome the anticipation and obviousness rejections.

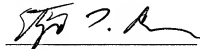
SUMMARY

In light of the above remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicits timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

The Commissioner is hereby authorized to debit the Deposit Account of Baker Botts L.L.P., Deposit Account No. 02-0383, Order Number 063718.0454 in the amount of \$790.00 for the RCE fee under 37 C.F.R. § 1.117(e). However, should the Commissioner deem that any other fees are due, including any fees for extensions of time, Applicant respectfully requests that the Commissioner accept this as a Petition Therefor, and direct that any additional fees be charged to Baker Botts L.L.P. Deposit Account No. 02-0383, Order Number 063718.0454.

The practitioner, named below, is authorized to file correspondence in the above-identified application pursuant to 37 C.F.R. § 1.34.

Respectfully submitted,



Elizabeth L. Durham
Registration No. 59,509
BAKER BOTTS L.L.P.
One Shell Plaza
910 Louisiana
Houston, TX 77002
Telephone: 713.229.2104
Facsimile: 713.229.7704
Email: liz.durham@bakerbotts.com

Date: February 15, 2007